
**Testimony of**

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**on behalf of the**

**Kaiser Permanente Medical Care Program**

**Before the**

**Committee on Energy and Commerce**

**Subcommittee on Health**

**U.S. House of Representatives**

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Chairman Dingell, Congressmen Barton, Pallone and Deal, thank you for the invitation to be here today. I am Jamie Ferguson, Executive Director of Health IT Strategy and Policy for Kaiser Permanente, which comprises the Kaiser Foundation Health Plan, Kaiser Foundation Hospitals and the Permanente Medical Groups. I am testifying today on behalf of the national Kaiser Permanente Medical Care Program. We are the nation's largest integrated health care delivery system, providing comprehensive health care services to more than 8.7 million members in nine states (California, Colorado, Georgia, Hawaii, Maryland, Ohio, Oregon, Virginia, Washington) and the District of Columbia.

For most of my six years with Kaiser Permanente, my work has focused on expanding our information technology capabilities and developing interoperability between systems both within Kaiser Permanente and across diverse entities involved in patient care and population health. Standardized health data exchange is a key to achieving benefits such as health records portability and improved coordination of care.

**Background: Health Information Technology**

Health information technology (IT) encompasses a broad scope of systems affecting health care. Some systems capture actual patient encounter data, such as electronic medical records (EMRs), which can include sophisticated tools for clinical decision support and electronic prescribing. Recently, the development of personal health records (PHRs) has allowed personal health data to be collected and managed in new ways; The most robust PHRs may offer the ability to make appointments, renew prescriptions, or see lab test results online. Consumers may also benefit from secure email communications with their providers through their integrated PHRs.

Health IT can also include other clinical information systems, such as laboratory, radiological and image management, pharmacy management, terminology services[1] and clinical analysis and reporting systems. Biomedical devices, including network-connected devices and home-care devices are also components of health IT. With increasing innovation, health IT can be applied to various analysis and reporting systems, leading to improved accuracy and speed in areas of bio-surveillance, public health reporting and immunization or disease registries. Health care administrative and financial information, such as claims and information derived from claims, increasingly depend on health IT.

Because of the unique nature of health information, the adoption and application of health IT imposes special challenges. Health facts and records are permanent in a way that commercial or financial records are not – there is no way to create a "clean slate" when it comes to individual personal health history. Health information is particularly sensitive because it has the potential to be misused to discriminate against individuals in employment and insurance contexts. Health records are unique to the individual; at the same time, the health history of an individual may relate to family members because certain tests, treatments, or medication may indicate genetic traits or conditions. Moreover, because of the complexity of health data, health information models are substantially more complicated than other industries' information models.

These factors present a unique combination of concerns regarding personal privacy, medical practice and liability. There are also cultural challenges of moving user groups

[1] These terminologies allow standard coding of clinical data. The National Committee on Vital and Health Statistics has been working on designating standards for clinical data and the National Library of Medicine (NLM) serves as a national release center for SNOMED CT® (**S**ystematized **No**menclature of **Med**icine-**C**linical **T**erms). The U.S. Department of Health and Human Services is beginning to require data transmission in SNOMED. http://www.ihtsdo.org/our-standards/snomed-ct/

towards adoption of health IT. Our own experience has demonstrated that all users – physicians, other providers and patients – need to attain a level of comfort and trust with the system before they are able to create value consistently using the system.

**Kaiser Permanente HealthConnect™**

In 2003, Kaiser Permanente began the KP HealthConnect™ project, the world's largest civilian deployment of an electronic health record. KP HealthConnect is a comprehensive health information system that includes one of the most advanced electronic health records available. It securely connects 8.6 million people to their health care teams, their personal health information and the latest medical knowledge, leveraging the integrated approaches to health care available at Kaiser Permanente.

In April of this year, we completed implementation in every one of our 421 medical office buildings, ensuring that our 13,000 physicians and all other ambulatory caregivers have full access to members' clinical information. In addition, we have completed the deployment of inpatient billing; admission, discharge and transfer; and the scheduling and pharmacy applications in each of our 34 hospitals. Now, we are in the midst of an aggressive deployment schedule of bedside documentation and computerized physician order entry (CPOE). As of today, we have 15 of our hospitals fully deployed and will have 25 completed by the end of the year.

One of our greatest lessons has been how much KP members value the ability to use online tools to manage their health. Launched in 2005, our personal health record, *My Health Manager*, now has more than 2 million active users. We believe this is the largest

user base of online personal health records in the U.S. Due to a direct link to actual clinical and operational systems, we are able to provide our members with access to robust features, including access to lab test results, appointment scheduling, prescription refills and even the ability to securely email their doctors.

To date, we have emailed members over 56 million lab test results. Our members have sent over five million secure email messages, made over two million online visits to book and review future appointments and logged over one million online visits to view past office visit information.

At Kaiser Permanente, we are already realizing the value of health IT. With 24/7 access to comprehensive health information, our care teams are able to coordinate care at every point of service – physician's office, laboratory, pharmacy, hospital, on the phone and even online. Our early results demonstrate that health IT, as *Crossing the Quality Chasm* predicted, helps to make care: safe, effective, patient-centered, timely, efficient and equitable.

Kaiser Permanente has made a huge investment in IT, both financially and philosophically. We believe it has the power to transform the way we deliver health care and improve patient health. Since the deployment of our integrated medical record, we have begun to see major advances in the ability to use information systems as a diagnostic tool (for identifying and understanding patients with certain risk factors) as well as for appropriate therapeutic intervention (for encouraging adherence and therapeutic intensification or moderation when needed).

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**Kaiser Permanente's Other Investments in Health IT**

In addition to KP HealthConnect, Kaiser Permanente has developed and implemented other systems for administrative simplification, such as handling HIPAA claims transactions, membership enrollment, eligibility and benefits, registration and scheduling. We have other systems that provide extended clinical information capability – a panel support tool, which gives physicians more effective ways to practice preventive medicine and identify patients with specific needs. We have developed systems to support disease registries, other large scale studies and disease management.

Kaiser Permanente has been very involved in promoting health IT interoperability. We are core participants in federally sponsored activities, such as the Health Information Technology Standards Panel (HITSP), the Certification Commission for Health Information Technology (CCHIT), the National Health Information Network (NHIN) Collaboration and Trial Implementations and the National Committee for Vital and Health Statistics (NCVHS).

We also participate in local, regional and state-level health information exchange entities as well as major industry initiatives, such as the personal health record project of America's Health Insurance Plans (AHIP) and national and international interoperability standards development.

**Draft Health IT Legislation**

Today, as you requested, I would like to offer remarks on this draft legislation.

Kaiser Permanente strongly supports the goals envisioned by this legislation. Based on our own experiences with KP HealthConnect, we know health IT offers great benefit. We believe Congress has an important role to play in this area. This draft bill offers a framework for delivering the promise of health IT to all Americans.

The bill outlines a well-defined structure to promote the adoption of health information technology, through the Office of the National Coordinator, with the formation of the HIT Policy and HIT Standards Committees under the Federal Advisory Committees Act. We believe the role of the Office of the National Coordinator described in this bill broadly covers the important purposes to be served as well as the appropriate duties to be undertaken.

Common standards are critical to the widespread adoption of health information technology. We note that the duties of the HIT Standards Committee include development of standards as well as review and endorsement of standards, which would give the Committee an unusually broad scope. Typically, standards development is done by standards development organizations, such as HL7or IEEE, after which the standards best suited to particular purposes are selected or adopted by a committee or an agency. We suggest the Standards Committee could endorse – or select, ratify and/or recommend – standards developed by more technical panels.

Establishing a pilot-testing program as in the draft bill is an excellent way to support robust standards adoption. The National Institute of Standards and Technology (NIST) is well positioned for its proposed role in testing, and NIST should focus on its particular expertise in technical infrastructure and security. We question, however, its role in establishing certification criteria for HIT, especially given the existing role of CCHIT

Several key provisions will speed adoption of health information technology. First, the bill advocates for the adoption of uniform federal interoperability standards, mandating requirements in federal contracts. The contracting mechanism represents an improvement over the Administrative Procedures Act as applied to standards under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contract terms and conditions allow flexibility regarding timing and enable innovation. Current and proposed versions of contract provisions, however, apply requirements for standards to all federally-contracted health plans and have no requirements for the providers who contract with those health plans. Providers are the primary users of electronic medical records and their willingness to adopt technology is crucial to the widespread promotion of health information technology. So, as a means to promote and speed EMR adoption, this contracting mechanism would be ineffective unless it adds requirements for providers to use the health IT standards.

Kaiser Permanente is especially supportive of the grants and incentives programs contained in this bill that are aimed primarily at safety net providers and small rural and community clinics that often lack the resources to purchase and maintain technology systems. As part of our mission, Kaiser Permanente works closely with community

health centers, public hospitals and health departments, supporting their efforts to provide care for the uninsured and for underserved communities with infrastructure, training, grants and equipment.

Health information technology is critical to improving the quality of health care, but the costs can be daunting for most safety net providers. Our grants help organizations make important program upgrades such as electronic patient registries. They also enable public hospitals to exchange critical information with community health centers to improve coordination of patient care. So far we've committed more than $10 million in technology-related investments to bring about a better-coordinated, safer and more effective system of care for everyone in our communities. Given tight federal budgets, a focus on the truly underserved communities is most appropriate. Competitive market pressures should serve as a catalyst for other slower adopters.

The inclusion in the bill of a transition plan to transfer the ongoing efforts and recommendations of the current American Health Information Community in a consistent manner is important. There are other entities with important roles in health information technology, which may need to be transitioned as well, including HITSP, NCVHS and CCHIT.

We support the bill's intent to address broad consumer concerns about the privacy and security of their personal information. All consumers should be able to rely on an appropriate and consistent minimum level of privacy and security protections, including consistent technical standards and rules for secondary or subsequent use of patient health data with consistent enforcement of these rules. These protections should apply equally

to all databases of personal health data, no matter where they exist in the United States. We strongly support the exploration of technical innovations aimed at providing consumers with secure choices for their health data, especially choices that allow greater capabilities, such as the ability to store and transfer data from one entity to another.

At the same time, in this rapidly evolving market, entities who offer substantially similar products and services should not be permitted to operate under different levels of regulatory oversight and enforcement. In many different health care forums we have heard concerns that non-HIPAA-covered entities that persistently store electronic personal data should be subject to the same minimum privacy and security protections as HIPAA-covered entities whether acting on behalf of consumers or as independent commercial agents.

We also agree consumers should be notified when their personal data are breached. Our general practice is to support the requirements of the California breach notification law across all of our regions. The draft bill exempts PHR vendors from notification requirements if the data in question have been encrypted. However, it does not provide the same exemption for covered entities and business associates. We are concerned about the unequal application of the notice provision and believe all entities should be held to the same rules.

We also believe that the proposed restrictions on certain marketing practices are good, so long as they do not prevent valuable population health communications about disease management, wellness programs and patient education. We look forward to working with

the committee on developing language to provide both the maximum privacy protection and clinical benefit for patients.

Mr. Chairman and distinguished members of the Committee, thank you again for the invitation to testify here today. I look forward to answering any questions you may have.

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References¶
<#>Kaiser Permanente. KP HealthConnect, Value/Quantifiable Benefits. (May 2008).¶
<#>California Assembly Bill No.1298, Chapter 699. Jones. Personal information: disclosure. 2007.¶